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January 28, 2008

Hon. Mark D. Fox, USMJ
United States District Court
Southern District of New York
300 Quarropas Street
White Plains, NY 10601

Re: Valentine, et al. v. MTD Products, et al.
07 CIV 3914
Our File No. : 10360.00001

Dear Magistrate Fox:

This office represents defendant, MTD Products, Inc., in the above-referenced matter.

At your direction, and on behalf of all parties to this litigation, we are writing to confirm the results of the telephone conference held before Your Honor on January 16, 2008.

1) All parties have agreed to waive the January 31, 2008 deadline by which plaintiff must depose defendants' fact witnesses. Defendants have agreed to make their fact witnesses available for depositions at a later stage of this litigation (see below), if necessary.

2) As soon as possible, plaintiff will serve upon defendants copies of the file material (notes; memoranda; photos; etc.) currently in the possession of Paul Davis Restoration (PDR) and any and all liability experts for defendants' review. Defendants reserve their right to take the deposition(s) of PDR and/or the experts (see below).

3) Plaintiff will serve its Rule 26 expert(s)' disclosure on or before March 15, 2008. Defendants will serve their Rule 26 disclosure on or before March 31, 2008.

4) Upon the completion of the exchange of Rule 26 disclosure per paragraph 3 above, the parties will consider the possibility of submitting this matter to private mediation or court-sponsored mediation. If the parties do not agree to submit this matter to mediation, depositions of remaining fact and/or expert witnesses will resume per an agreed upon schedule.

5) The next telephone conference with Your Honor is scheduled for **February 13, 2008 at 8:45 a.m.**

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Thank you for your attention to this matter.

Very truly yours,

WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP



Rosario M. Vignali

RMV:bs

cc: Cozen & O'Connor
Att: Jeff Nash, Esq.

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Bryan H. Mintz, Esq.

Molod Spitz et al.
Att: Alice Spitz, Esq.